



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
Edmonton AB T5J 0G9
Phone: (780) 496-5026

NOTICE OF DECISION NO. 0098 323/11

Canadian Valuation Group Ltd.
1200-10665 Jasper Avenue
Edmonton, AB T5J 3S9

The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
3 Sir Winston Churchill Square
Edmonton, AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on November 9, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
10031649	1104 95 Street SW	Plan: 0520452 Block: 16 Lot: 2	\$5,145,000	Annual New	2011

Before:

Steven Kashuba, Presiding Officer
Francis Ng, Board Member
John Braim, Board Member

Board Officer:

Annet Adetunji

Persons Appearing on behalf of Complainant:

Tom Janzen, Canadian Valuation Group Ltd.

Persons Appearing on behalf of Respondent:

Brennen Tipton, Assessor, City of Edmonton
James Cumming, Assessor, City of Edmonton
Vasili Kim, Assessor, City of Edmonton
Tanya Smith, Barrister & Solicitor, City of Edmonton

PRELIMINARY MATTERS

1. Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file. Upon the request of both parties, all evidence is to be received under oath.
2. At the outset of the hearing the Respondent informed the Board that they had reviewed the complaint and, as a result, were prepared to reduce the assessment amount by 3.8% from \$5,145,000 to \$4,948,500. This recommended reduction is based upon the City of Edmonton's conclusion that the rental rate as applied to the warehouse space in the subject property of \$8.00 per square foot was in error, and instead that this rate should be \$6.00 per square foot. By applying this reduced rate to an area of 7,920 square feet of warehouse space (Exhibit R-1, page 25), a reduced assessment was calculated. As a result, the Respondent presented a recommendation to the Complainant for a reduction in the assessment amount to \$4,948,500.
3. Having examined the recommendation for a reduction, the Complainant accepted the City's recommendation to reduce the assessment based upon the rental rate for the warehouse, but rejected the notion that further reductions to the assessment are not warranted. As a result, the Complainant asked that the Board proceed to the merits of the complaint in order to examine other issues upon which a further reduction in the assessment amount may be necessary.
4. The Board accepts the Complainant's position that there may be other issues which should be heard and, as a result, confirms that this hearing will proceed to an examination of the merits of the complaint as listed by the Complainant.

BACKGROUND

5. The subject property, known as Mancap Office Building, is a multi-tenant office building located in South Edmonton at 1104 - 95 Street SW and classified as a Class AA Office Building. In addition to the office building, the property also contains a warehouse building in which a portion is allocated to storage, and 8 garages. The current assessment is \$5,145,000.

ISSUES

6. The subject is incorrectly classified as a Class AA Office Building,
7. The lease rate per square foot applied to the office building is too high, and
8. The vacancy rate applied to the subject property is too low.

LEGISLATION

Municipal Government Act, RSA 2000, c M-26

S. 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

S. 467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- a) the valuation and other standards set out in the regulations,*
- b) the procedures set out in the regulations, and*
- c) the assessments of similar property or businesses in the same municipality.*

POSITION OF THE COMPLAINANT

9. It is the submission of the Complainant that the subject property has been incorrectly classified by the City as a Class AA Office Building rather than a Class A Office Building. As a result, the City has applied a rate of \$23 per square foot for the office space together with a stabilized 5% vacancy allowance, a 2% structural expense and \$15 per square foot vacancy shortfall. In addition, a 7,920 square foot warehouse building was assessed using a lease rate of \$8 per square foot, 2,467 square feet of storage space at a rate of \$1.50 per square foot, and 8 parking garages at \$100 per unit. The resulting net income estimate of \$385,889 was capitalized at 7.5% to arrive at the 2011 assessment of \$5,145,000.
10. The Complainant does acknowledge that the Respondent has a recommendation to reduce the rental rate for the warehouse from \$8 per square foot to \$6 per square foot which is acceptable to the Complainant.
11. According to the Manacap Properties Inc. Income Statement for the period ended December 31, 2010, the base rent received for 2009 and 2010 for the subject property was \$18 per square foot for the office building of 15,500 square feet and \$6.50 for the warehouse building. The net incomes for the office building were \$295,096 for 2009 and \$299,069 for 2010 (Exhibit C-1, page 8). This net income stream is in contrast to the Respondent's figure of \$385,889 in their Pro-Forma (Exhibit C-1, page 6). As a result, it is the opinion of the Complainant that the City's classification of the office building as being Class AA is incorrect and should be downgraded to a Class A Office building. If this were the case, the lease rate per square foot would be reduced from \$23 to \$17 and the assessment reduced to \$3,115,500 (Exhibit C-1, pages 1-3).
12. In support of their position, the Complainant presented the actual rent rolls for June and December of 2010 reflecting a base rent in the office building of \$18 per square foot. All leases are for a period of 8 years with a start date of March, 2006 and an end date of March, 2014. In addition, the base rent for the warehouse for the same period of time is \$6.50 per square foot. An income statement for the property is provided for 2009 and year-to-date for 2010. When the actual lease rates are factored into a Pro-Forma (Exhibit C-1, page 2) and by applying a capitalization rate of 7.5% as applied by the City, an assessment of \$3,113,500 is derived (Exhibit C-1, page 3).

13. The Complainant also provided 4 *third-party* reports in support of their request for a reduction in the assessment amount. The first such report is from Colliers which deals with office properties in Edmonton for the fall of 2010 and reflects an asking lease rate for a property in the Summerside Business Centre of \$22 per square foot for a Class AA office, inclusive of underground parking. However, according to the Complainant the subject property should be more correctly categorized as being a Class A Office Building with a lease rate of \$18 per square foot (Exhibit C-1, page 9).
14. The second *third-party* report comes from Barnicke (Exhibit C-1, page 10) which states that “*Some landlords decided that in order to fill their vacancies they would need to act more aggressively than simply matching the current market. This included lowering their rates, offering free rent and/or offering an aggressive tenant improvement incentive.*” The Complainant points out that for the Southside sector of the City, the availability of office space is 20.76%, thereby reflecting a relatively high vacancy rate. This being the case, the subject property should receive a higher vacancy rate allowance than the stabilized 5% (Exhibit C-1, page 6).
15. The next *third-party* comes from Edmonton On Track, Commercial Real Estate Guide for 2011/12 (Exhibit C-1, page 11). The report states that at the end of 2010, the suburban office vacancy rate reached 14.6 percent, up from 12.3 per cent a year earlier that “*Rents for Class A space fell even harder, by 23.3 per cent to \$16.82 per square foot.*” Since it is the submission of the Complainant that the subject office should be rated as Class A, is further support for the application of a rate of \$18 per square foot of office space for the subject property. Finally, the report notes that for suburban offices, the rental rates in the Southside sector of the City ranged from \$13 to \$20 per square foot for all classes of property.
16. The fourth and final *third-party* report upon which the Complainant relied is a CB Richard Ellis MarketView Edmonton Office report for the Second Quarter of 2010 (Exhibit C-1, pages 12 – 15). The report states that the Suburban vacancy rate is 13.8 per cent, an increase of 150 basis points since the year-end of 2009. As to the question of rental rates, the report states that the Downtown office space commands rates from \$22.31 per square foot to \$21.52 per square foot between the first and second quarter of 2010 for Class AA buildings. However, the report also notes that the overall asking average net rental rate for the suburban market is \$17.28 per square foot.
17. In response to questions from the Respondent, the Complainant agreed that the subject office building is fully leased and has no vacancy.
18. By way of conclusion, the Complainant asked the Board reclassify the office building as Class A, apply a lease rate of \$18 per square foot for the office space, and apply a vacancy rate allowance of 15%. In the least, the Complainant requested that the Board grant a reduction in the assessment amount no less than that as recommended by the Respondent (Exhibit R-1, page 25, a reduction from \$5,145,000 to \$4,948,500). In other words, the Complainant accepts the City’s position that the lease rate applied to the warehouse space should be \$6 per square foot but requests a Class A designation for the office space and a higher vacancy rate allowance. In the event that the Board does not reduce the class of the office building, the Board should consider a reduction in the lease rate as applied to Class AA offices.

POSITION OF THE RESPONDENT

19. In presenting their defense for the current assessment, the Respondent asked that the recommended reduction of \$4,948,500 be considered rather than the original assessment amount of \$5,145,000.
20. In support of the revised assessment, the Respondent submitted that the subject office building does reflect the attributes of a Class AA Office Building (Exhibit R-1, page 26) in that the building has been inspected earlier this year and found to portray the fit and finish of a building in this class (Exhibit R-1, pages 15 – 20, 24 photographs). To support this determination, the Respondent presented pictures of the Canadian Homebuilder's Association (Exhibit R-1, pages 51 – 53) located near the subject property at 150 Summerside Gate, and the Marada Center (Exhibit R-1, pages 55 – 58, located at 5530 – 111 Street). These two suburban offices are classified in the category of Class AA, exhibit characteristics similar to that of the subject property and are assessed at \$23 per square foot of office space.
21. In examining these two comparables, the Complainant raised the question of comparability saying that the Homebuilder's Association building exhibits characteristics superior to those found in the subject property. As for the Marada Center building, the Complainant pointed out that this building is far removed from the subdivision in which the subject is located and, in essence, is not an office building but rather an upscale dental facility which reflects a far higher standard of fit and finish as compared to the subject property.
22. Further to this and in response to a question from the Complainant, the Respondent admitted that the City did not possess specific criteria through which an office building could be classified as a Class AA building other than the subjective visual inspection of the fit and finish conducted by a City Assessor.
23. The Respondent reviewed the rent roll as provided by the Complainant (Mancap Properties) and found that the rents do not appear to represent typical market rates. To support this observation, the Respondent presented the Commercial Tenant Roll for Mancap Properties (Exhibit R-1, pages 31 - 32) in which the office space is fully leased. A list of 7 Class AA properties showing a *scattergram* for lease rates for Class AA offices, time-adjusted to the valuation date of July 1, 2010 (Exhibit R-1, page 34), was also presented.
24. To support the application of a rental rate of \$23 per square foot for Class AA Office Buildings, the Respondent submitted a total of 23 Suburban South Side District Class AA Office Buildings (Exhibit R-1, page 35) showing the stabilized rent rates, vacancy rate, CRU rate, structural allowance, stabilized office CRU operating costs per square foot, the 2011 capitalization rate, and the assessment rate per square foot of office space. These very same stabilized variables were applied to the subject property when determining its assessment.

25. As regards the Suburban South Side Area District Class AA Office Buildings chart and in response to a question of the Respondent, the Complainant agreed that they had used, in their revised Pro-Forma, a vacancy rate of 15% as derived from *third party* reports (not stabilized), a structural allowance of 2% (stabilized), and a capitalization rate of 7.5% (stabilized); however, rather than using a rental rate of \$23 per square foot, the Complainant used a rate of \$18 per square foot as applied to Class A Office Buildings.
26. By way of conclusion as regards rental rates, the Respondent submitted that they do review *third-party* resources and compare their findings to the rates established by the City but that these rates should not be used by the Complainant as evidence (See Exhibit R-1, pages 68 – 81, MGB 054/10) to support their request for a reduction in the assessment amount.
27. In addressing the Respondent's submission as regards a recommendation to reduce the rental rate applied to the warehouse space through which a reduction in the assessment amount would move from \$5,145,000 to \$4,948,500, the Respondent submitted that the City of Edmonton reviewed this rate and found that the \$8 per square foot was applied in error and should be reduced to \$6 per square foot. To reflect this, the City requested that the Board revise the 2011 assessment to \$4,948,500.

DECISION

28. It is the decision of the Board to reduce the assessment of the subject property for 2011 from \$5,145,000 to \$4,948,500.

REASONS FOR THE DECISION

Issue #1: The subject is incorrectly classified as a Class AA Office Building

29. The Board reviewed the Complainant's allegation that the subject property was over-rated as a Class AA Office Building as opposed to a Class A Office Building through which the rental rates per square foot would decrease. However, too little evidence was provided by the Complainant through which the Board would be able to discern that the structural, fit, or finish of the subject property would warrant such a reduction.
30. Further, the Board notes that arterial roads, access, and location are not necessarily the important variables that determine the Class of an office building. The only evidence provided by the Complainant in this regard are 6 pictorials along with associated data which reflect location, net rent, operating costs per square foot, and parking. However, no reference is made or provided about the fit, finish or any other distinguishing features that would specifically lead the Board to reduce the office building from Class AA to Class A.

31. On the other hand, the Board accepts the Respondent's evidence that the characteristics of the subject property are reflective of the 23 office buildings in South Edmonton which carry the designation of Class AA and which reflect characteristics similar to that of the subject property in terms of effective year built, fit, and finish. In particular, the Board notes that the revenue for 8 parking stalls at \$100 per stall for the subject property actually relates to 8 enclosed double-stall garages and does reflect the attributes of a Class AA office building. To each of 23 office comparables is applied, in a consistent manner, a typical rental rate of \$23 per square foot, a 5% vacancy rate for office space, a CRU vacancy of 5%, a structural allowance of 2%, and a capitalization rate of 7.5%. The Board accepts that these variables were appropriately applied to the subject property.

Issue #2: The lease rate per square foot applied to the office building is too high

32. The issue of the lease rate that is applied by the City is directly related to the determination of the class of the office building. In this case, it is the position of the City that the subject building is a Class AA structure while the Complainant believes that it is a Class A building. However, since too little information was provided by the Complainant through which the Class could be challenged and reduced, the Board accepts, from the photographs and information provided that the subject office building is correctly classified as a Class AA office building. Further to this, the Board notes that the current leases in the subject property were signed in 2006 for a period of 8 years without the inclusion of any escalation clauses. As a result, the board places considerable weight on the Respondent's submission that the subject property is treated fairly and equitably with other structures in South Edmonton which exhibit similar characteristics.

Issue #3: The vacancy rate applied to the subject property is too low

33. The Complainant, in support of their request to increase the vacancy rate allowance, presented several *third-party* reports which reflect reported office vacancy rates in South Edmonton. The Complainant then used the opinions contained in these reports to apply a higher vacancy rate in their Pro-Forma through which a reduction in the assessment amount is sought. However, the Board notes that a request for a higher vacancy rate allowance is not supported by the report from the Complainant wherein the office space in the subject property is fully leased. This, in turn, brings up the question of the use of a stabilized vacancy rate in the Complainant's Pro-Forma to support a reduction in the assessment amount. Finally, the Board notes that a portion of the office space is leased by the owner which also brings into question the subject's lease and occupancy rates.
34. The Board places considerable weight upon the submission of the Respondent as regards the application of a stabilized vacancy rate for all suburban offices in South Edmonton as well as for the subject property.

Respondent's Recommendation as a Preliminary Matter

35. In reaching its decision, the Board is mindful of the preliminary matter raised by the Respondent in which they submitted that the rental rate applied to the warehouse portion of the development should be reduced from \$8 per square foot to \$6 per square foot. The Board accepts that this reduction, based upon the evidence provided by both parties, is fair, equitable, and correct and concludes that the assessment should be reduced to the amount advanced by the Respondent.

DISSENTING OPINION AND REASONS

36. There was no dissenting opinion.

Dated this 15th day of November, 2011, at the City of Edmonton, in the Province of Alberta.

Steven Kashuba, Presiding Officer

This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, RSA 2000, c M-26.

cc: Mancap Properties Inc.